IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25-09-2007

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN
AND
THE HONOURABLE MRS.JUSTICE CHITRA VENKATARAMAN

A.S.NO.1063 OF 1995
AND W.P.NO.6733 OF 1995

A.S.No.1063 of 1995:

The Land Acquisition Officer and
the Revenue Divisional Officer
Coonoor. ... Appellant/Referring Officer

Versus

1. K.Lakkay Gowder Trust
   rep.by its Managing Trustee
   K.Balalingaiah
   Udagamandalam Town & Taluk
   The Nilgiris District

2. Radio Astronomy Center
   Tata Institute of Fundamental
   Research, National Centre for
   Nuclear Science and Mathematics
   Post Box NO.8, Uthagamandalam
   Tamil Nadu. .. Respondents/Claimant

Respondent NO.2 is impleaded as party respondent vide order dated 14.7.2006 made in C.M.P.No.3067 of 2006.

W.P.No.6733 of 1995:

Radio Astronomy Center
Tata Institute of Fundamental
Research, National Centre for
Nuclear Science and Mathematics
Post Box NO.8, Uthagamandalam
Tamil Nadu. ... Petitioner

Versus

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1. K.Lakkay Gowder Trust
   rep.by its Managing Trustee
   K.Balalingaiah
   Udagamandalam Town & Taluk
   The Nilgiris District
2. The District Judge
   (exercising powers under
   Sect.18 of Land Acquisition
   Act) The District Court
   Udhagamandalam
   Nilgiris District.

3. The Land Acquisition Officer and
   the Revenue Divisional Officer
   Coonoor, Nilgiris District. .. Respondents

W.P.No.6733 of 1995:

For Appellant :: Mr.V.Ravi,Spl.G.P.
A.S.No.1063/95 and
for Respondent No.3
in W.P.No.6733 of 1995.

For Respondent :: Mr.S.K.Raghunathan
No.1 in both
A.S.No.1063 of 1995&
W.P.No.6733 of 1995

For Respondent :: Mr.N.Jothi
No.2 in A.S.No.
1063 of 1995 and
for petitioner in
W.P.No.6733/1995.

Prayer: Appeal suit preferred against the order and decretal order made in L.A.O.P.No.69 of 1990 on the file of the District Court, Ooty dated 22.11.1994.

Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorari to call for the records pertaining to the enhancement of compensation as awarded in L.A.O.P.No.69 of 1990 dated 22.11.1994 on the file of the District Judge, Udhagamandalam so as to quash the same as illegal, ab initio void and unenforceable on non-issue of statutory notice to the writ petitioner in terms of the Land Acquisition Act.

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JUDGMENT

Aggrieved by the judgment and decree dated 22.11.1994 passed by the Reference Court (District Court, Udhagamandalam) enhancing the compensation to Rs.15,000/- per cent from Rs.2311.50 per cent and granting 30 percent solatium and interest at the rate of 12% from 8.1.1986 till the payment of the amount, the present appeal in A.S.No.1063 of 1995 has been filed by the Land Acquisition Officer.

2. The facts culminated in filing of the present appeal proceeds as follows:

An extent of 0.92 cents in S.No.3971/2 and an extent of 0.85 cents in S.No.3974/2 totalling 1.78 acres of land in Udhagamandalam Town, Nilgiris District had been acquired for the purpose of construction of quarters for the staff members of Radio Astronomy Centre, Udhagamandalam from the first respondent Trust. It appears that originally there was a private negotiation between the claimant/first respondent and the beneficiaries - the impleaded second respondent and possession of the land has been handed over to the second respondent in the year 1983. The second respondent started construction work on 30.7.1983. Thereupon, nothing on record is available about the outcome of private negotiation. The appellant issued notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") on 13.11.1985 and Section 6 declaration was published in the Government Gazette on 3.12.1986. After conducting the enquiry, the Land Acquisition Officer/appellant herein passed an award in award No.2 dated 12.6.1987. Under the award, the Land Acquisition Officer determined the compensation in a sum of Rs.231150/- per acre as against the claim made by the claimant in a sum of Rs.50 lakhs per acre. Thus, the Land Acquisition Officer has fixed the land value for 1.78 acres at Rs.4,11,477/- at the rate of Rs.2,31,150/- per acre, solatium at the rate of 30 percent i.e., Rs.1,23,434.10ps and interest at 12 percent on the market value of the land from 8.1.1986 to 7.4.1987 i.e., Rs.70,622.34ps., totalling to Rs.6,05,503.45ps.

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3. The claimant, not satisfied with the determination of compensation requested for reference to be made under the Act. As such, the matter was referred to the District Court, Udhagamandalam under Section 18 of the Act, 1894 by the Revenue Divisional Officer, Coonoor in his proceedings dated 12.10.1989.

4. The claimant filed a claim statement by contending that the determination of the compensation by the Land Acquisition Officer at the rate of Rs.2,31,150/- per acre for the acquired land is

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abnormally low and did not represent the true market value of the lands on the date of Section 4(1) notification. The data sale deed Ex.C.2 relied on by the Land Acquisition Officer is not reflecting the market rate. He ought to have accepted the sale deed dated 21.3.1984 Ex.C.1 which is reflecting the real market value of the land during the relevant period of time.

5. The reference Court upon hearing either side and taking into consideration of the Ex.C.1 sale deed dated 21.3.1984 has enhanced the compensation as stated above.

6. The Land Acquisition Officer has filed the above appeal questioning the correctness of the enhanced compensation awarded by the Reference Court.

7. During the pendency of the appeal, the requisitioning body -Radio Astronomy Centre, the second respondent in the appeal, filed a writ petition in W.P.No.6733 of 1995 seeking for the relief of issuance of writ of certiorari to call for the records pertaining to the proceedings in L.A.O.P.No.69 of 1990 dated 22.11.1994 on the file of the District Judge, Udhagamandalam and quash the same as illegal on the ground that the writ petitioner was a necessary party to the proceedings before the Reference Court and the determination of enhancement of compensation by the reference Court without hearing them was illegal and against the statutory provision. Pending proceedings before the Reference Court, notice should have been issued to the writ petitioner and they should have been allowed to defend the case by adducing evidence. The said writ petition was tagged along with the appeal suit. In the mean time, the writ petitioner - Radio Astronomy Center was impleaded as a second respondent in the appeal suit NO.1063 of 1995 by order of this Court dated 14.07.2006 made in C.M.P.No.3067 of 2006.

8. When the appeal and writ petition were taken up for disposal on 1.12.2006 this Court passed the following order:

> "....8. Therefore, to redress the grievance of the requisitioning body that they have not been served with any notice as contemplated under Section 20(d) of the Act, which concededly mandatory and that they have been deprived of an opportunity to adduce evidence, both oral and documentary, as protected under Section 50(2) of the Act and also in order to avoid any further delay in the matter, we are of the considered opinion to pass the following order:-
>
> (i) Since the parties concerned, viz., the claimants, the acquisitioning authority as well as the requisitioning body, are before us, they are directed to appear before the learned District Judge, Udhagamandalam, Nilgiris

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District, on 11.12.2006;

(ii) On the parties being appeared on 11.12.2006, the learned District Judge, Udhagamandalam, Nilgiris District is directed to permit them to appear and adduce evidence, both oral and documentary, to substantiate their respective claims, to record the same and to forward such evidence for appreciation of this Court in the above appeal on or before 11.02.2007."

9. Pursuant to the said order of this Court, the parties concerned in the appeal including the second respondent appeared before the District Court on 11.12.2006. On a petition filed by the second respondent in this appeal, C.W.1 was recalled and cross examined by the second respondent. On behalf of the second respondent, the respondent's witnesses R.Ws1 to 3 were examined and Exs.B.1 to B.8 were marked. All the materials have been transmitted to this Court.

10. Mr.Jothi, learned counsel appearing for the second respondent spearheaded the argument, which was adopted by the learned Government Pleader appearing for the appellant Land Acquisition Officer, as the grievance of the appellant and the second respondent is one and the same. He contended that no development charges have been deducted from the enhanced compensation by the Reference Court, rather the Reference Court failed to discuss about the issue at all. In order to bring home his contention, he relied on decisions of this Court in the case of (1) THE SPECIAL TAHSILDAR (L.A.), NEIGHBOURHOOD SCHEME, ERODE AND ANOTHER VS. PAVAYAMMAL AND ANOTHER reported in (2001) 1 MLJ 352, (2) THE SPECIAL TAHSILDAR (L.A.), NEIGHBOURHOOD SCHEME, ERODE VS. MEENAKSHIAMMAL (DIED) AND OTHERS reported in (2001) 1 MLJ 698 and that of the Supreme Court in the case of (3) H.P.HOUSING BOARD VS. BHARAT S.NEGI AND OTHERS reported in (2004) 2 SCC 184 and (4) VILUBEN JHALEJAR CONTRACTOR (DEAD) BY L.RS. VS. STATE OF GUJARAT reported in (2005) 4 SCC 789. He further contended that the interest on solatium can be granted only prospectively with effect from 19.9.2001 only. To support his contention, he relied on a decision of this Court in the case of THE SPECIAL TAHSILDAR (L.A.), NEIGHBOURHOOD SCHEME, ERODE AND ANOTHER VS. PAVAYAMMAL AND ANOTHER reported in (2001) 1 MLJ 352. He further contended that the reliance placed by the Reference Court on Ex.C.1 sale deed cannot be legally sustainable as the said sale deed was a make believe document created for the purpose of boosting the value of the land so as to get the compensation enhanced before the Court. He further contended that as per Exs.B.3 to B.7 sale deeds only, the compensation has to be arrived at.

11. However, Mr.Raghunathan, learned counsel appearing for the

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claimant contended that none of the documents marked at the instance of the second respondent can be taken note of as they are not real sale deeds, but are conveyed for the specific purposes stated therein. He further contended that there is no necessity for deduction of any percentage towards development charges as the lands were already developed lands fit for construction of quarters. The solatium granted by the Reference Court is in accordance with the statutory provision. There is no necessity to interfere with the same.

12. We heard the argument of the learned counsel on either side and perused the materials on record.

13. When the Reference Court decided the issue, one Balagangaiah was examined on behalf of the claimants and documents Exs.C.1 and C2 were marked through him. On behalf of the Land Acquisition Officer, no documents have been marked. None has been examined. Now additional materials such as evidence of C.W.1, R.Ws1 to 3 and Ex.B.1 to B.8 are available for consideration.

14. From the cross examination of C.W.1, it could be seen that nothing in favour of the appellant or second respondent has been elicited. On the contrary, in the cross examination, C.W.1 confirmed that the acquired land is situated within a distance of one kilometre from Railway Station and Bus stand and two kilometres from the market and it is within one kilometre from the heart of the city i.e., Chorangi Cross road and also within a distance of one kilometre from Banks and Post Office. He further confirmed in the cross examination that the acquired land is situated within the busy area of Udhagamandalam town and is nearer to Southern Star Hotel, Monor Hotel and Wilovunil Hotel. He confirmed in the cross examination that the Southern Star Hotel and Monor Hotel are situated within a distance of 100 feet and Wilovunil Hotel is situated within 75 metres from the acquired land. He further confirmed that the Southern Star Hotel is situated on the north west direction and Wilovunil hotel is situated just on the north side. In addition to that, C.W.1 further spoken to about the private negotiation and handing over of the land to the second respondent during the year 1983. Though he has stated in his cross examination that he offered land for Rs.20 lakhs on private negotiation, however he admitted that there was nothing on record to that effect. He further confirmed that he came to know about the Land Acquisition proceedings only on receipt of 4(1) notification dated 13.11.1985. He further confirmed that the second respondent has started construction of quarters during July 1983. He further confirmed that the acquired land is situated near the Mysore-Ooty Road and there is a eight feet width road to reach the Mysore Road. He specifically denied the suggestion that Ex.C.1 sale deed dated 21.3.1984 has been created by the claimant only to get higher

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compensation. He further denied the suggestion that at the time of acquisition of subject land, it was only an agricultural land, but confirmed that the land at that time was suitable for construction of building.

15. One Durai Ravichandran, Revenue Divisional Officer, Coonoor was examined as R.W.1 and he filed proof affidavit on 18.1.2007. He stated in the affidavit that Ex.C.2 is the appropriate data land as the land covered under Ex.C.2 is similar in nature to the land acquired and the Land Acquisition Officer rightly considered the document Ex.C.2 for determination of the compensation. The other four documents taken up for consideration by the Land Acquisition Officer were not in respect of either dry land or similar to the land under acquisition and therefore the Land Acquisition Officer has rightly rejected the same. He further stated that the acquired land is situated far away from School, Post Office and hotels. The compensation claimed was highly exaggerative and there was no semblance of real value of the property and further submitted that the compensation determined by the Land Acquisition Officer is fair and reasonable. In the cross examination at the instance of the second respondent - beneficiary, he has stated that the acquired land is situated 2 kilometres away from the bus stand and market and confirmed that the 4(1) notification was issued on 4.1.1984 (sic.13.11.1985) and Ex.C.1 came into existence on 21.3.1984. In the cross examination at the instance of the claimants, he has admitted that he was deposing on the basis of materials available on record, as he has taken charge of the Revenue Divisional Officer from 4.8.2006 and admitted that as per records the said land was handed over to the second respondent in the year 1983.

16. R.W.2- one P.K.Manokaran filed proof affidavit on 16.10.1984 on behalf of the second respondent - beneficiary. He stated that at the time of filing proof affidavit, he was the Chief Officer of the second respondent. The enhancement of compensation has been determined by the Reference Court on the basis of document Ex.C.1 dated 21.3.1984. That document has not been reflecting the real value, as it has come into existence after the Land Acquisition Officer has inspected the land for the purpose of acquisition. The sale deed Ex.C.1 is a fictitious sale deed. He further stated in the proof affidavit that the acquired land is 3 1/2 to 4 kilometres away from the important locality of Udhagamandalam. There are no inhabitants at the radius of 1 to 1 1/2 kilometres from the acquired land and the acquired land is 2 km away from Ooty -Mysore Road. The acquired land has not been developed even at the time of filing the proof affidavit. There are high tension electrical wires passing through the acquired land. When he was cross examined on behalf of the claimants, he confirmed the suggestion about the private negotiation and taking over of

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possession of the land on that basis. He also further confirmed that on the basis of the records available, the second respondent has made a requisition to the State Government on 13.11.1985, however, denied the knowledge about the same. He accepted that though Exs.B.4 and B.5 are not sale deeds, but were marked for the purpose of determining the market value of the land. He also accepted that Ex.B.5 (Ex.C.2) was a sale deed executed in favour of the tenant in possession of that property. The value stated therein reflected the correct price. Though he has stated that he was not directly aware of the sale deed dated 21.3.1984, but stated in the cross examination that it would have been created for the purpose of obtaining enhanced compensation. He also denied that even prior to 4(1) notification, the second respondent started construction of the quarters in the acquired property. He further expressed his inability to say the distance between the acquired land and bus stand and railway station and other places.

17. R.W.3 was one P.Papannan, son of Puttuswamy, in whose favour Ex.C.2 (Ex.B.5) has been executed. He has deposed that the value of the land acquired would be Rs.2,000/ to 3,000/- per cent during the relevant period. He deposed that about ten years prior to the date of his deposition i.e., 7.3.2007, he sold the land nearer to the acquired land at the rate of Rs.8,000/- per cent. However, he admitted that the said document has not been filed by him or available with him for marking.

18. On a careful appreciation of the evidence of C.W.1 and R.Ws.1 to 3, there is nothing available to sustain the case of the second respondent that the compensation awarded by the Reference Court is not based on data except contending that Ex.C.1 is a make believe document and created after aware of the fact that the said land was going to be acquired or in the alternative after the Land Acquisition Officer inspected the property prior to issuance of 4 (1) notification. R.W.1 – Revenue Divisional Officer stated that Ex.C.2 would be appropriate data. He was not even able to give the correct date of Section 4(1) notification even from the records. We cannot blame him or take his evidence as credential as he has taken charge as Revenue Divisional Officer only on and from 4.8.2002. R.W.2 – the Officer of the second respondent was evasive in his evidence. R.W.3 though stated that ten years prior to his evidence he sold his land at Rs.8,000/- percent, but not produced any document. Thus, the oral evidences made available have not improved the case of the appellant or the second respondent.

19. Now let us consider the documents. Ex.C.2 is a document dated 24.9.1984, copy of which is Ex.B.5, in respect of the land of extent of 1.67 3/4 acres of land in R.S.No.3980/1A of Udhagamandalam town. It is seen from the covenants contained in the said document that the transferee was a cultivating tenant of the

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said land and the executor was the owner of the land. The cultivating tenant was not cultivating the land prior to few years before the execution of the deed because of his old age and failure of monsoon and the vendee – the transferee/tenant vacated the said land and handed over possession on 31.1.1983 to the transferor whereas the transferors were desirous of making some provision to the tenant. As such, they conveyed an extent of 0.15 1/16 acres of land in S.No.3980/1A "free of cost" and without any consideration passed on. From the covenants, it is evident that the value of the land was fixed as per the assessment of the executant at Rs.31,650/- for the purpose of payment of stamp duty and the land conveyed thereunder was agricultural land. From the above factors contained in Ex.C.2, it is clear that the said document cannot be regarded as a document of sale by a willing seller to a willing purchaser. The land has been given to the transferee Puttuswamy for his act of surrendering possession of the land in S.No.3980/1A, which was under his possession and enjoyment as a cultivating tenant, as a free gift and the value mentioned in the deed is based on the assessment of the transferor for the purpose of payment of stamp duty. Hence, Ex.B.5 has to be rejected.

20. Ex.B.3 is a sale deed dated 15.7.1983 for an extent of 0.08 cents of land sold for a sum of RS.18,000/- on 15.7.1983. The Land Acquisition Officer has considered and rejected the document as the land under the document was situated opposite to the acquired land. It could be seen from the document that the land under the said document was located in a hillock and an extent of 0.40 acres were lying fallow without any cultivation and for want of water sources, the piece of land was not put into in use and was not fetching any income. Further, the vendor required fund for continuation of their education and under those circumstances, the land was sold to Rs.18,000/-, we are of the view that the said deed cannot be taken as a document reflecting the correct value, having regard to the covenants contained therein.

21. Ex.B.4 was executed on 31.10.1984 in respect of 3 ½ cents. It could be seen from the document that the father of the transferees 1 and 2 and the husband of transferee No.3 one C.S.Rajan was the cultivating tenant under the transferor and for surrendering the land to the owner - the transferor, the owner of the land conveyed free of cost an extent of 0.05 acres. The value fixed was Rs.10,600/- and that could be regarded as the value fixed for the purpose of stamp duty. So, this document also cannot be taken as a document reflecting the correct value.

22. Ex.B.6 is a document dated 29.3.1985 whereby an extent of 0.07 ½ cents was sold for a sum of Rs.30,000/-. The Land Acquisition Officer had rejected the same as it was a house site. We find no illegality or irregularity in rejecting the same, as the

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land was not only a house site but also situated opposite side of the acquired land.

23. Ex.B.7 is a sale deed dated 23.9.1993 for an extent of 0.10 1/2 cents sold for Rs.80,000/-. It could be seen from the document that the vendor has accepted to sell the land as he was of the opinion that it was a best price considering the fact that the plot of land is very deep and steep below several benches from the road level and highly difficult to ensure the approach unless a huge sum was spent on filling and other related civil works and therefore the vendor have agreed to convey the said plot of land to the purchaser for consideration of Rs.80,000/-. Hence, this document is also in our view,did not reflect the real market price. Ex.B.8 is the encumbrance certificate, which has no reference to the market value of any land.

24. Having considered the above said documents, we are of the considered view that none of the documents marked at the instance of the second respondent could be taken or regarded as comparable document for the purpose of determining the value or would advance the case of the second respondent that the enhancement made by the Reference Court was unreasonable, having regard to the facts and peculiar circumstances under which each of the document under consideration were executed.

25. Now, coming to Ex.C.1, though a strong objection has been raised by the second respondent that the document has been created for the purpose of boosting the sale value, except mere assertion and objection, there is no supporting material made available. A perusal of Ex.C.1 is also not suggesting anything as stated by the counsel for the second respondent and appellant. Admittedly, the document was registered well prior to 4(1) notification. The purchaser was a doctor, a third party not known to the claimant and an extent of 0.20 acres was purchased at the rate of Rs.15,000/ per acre. There is no iota of evidence to support the contention that the said document has been created only after the Land Acquisition Officer has inspected the area for the purpose of acquisition.

26. Though it was stated that possession has been given on a private negotiation, as already stated, the claimant has not made available any material or least a clue as to what was the agreed price or other terms and conditions. But the fact remains rather it is admitted that the possession has been take by the second respondent in the year 1983 well prior to the 4(1) notification and started the construction work from 30.7.1983. Ex.C.1 has come into existence 1 ½ years prior to the 4(1) notification. In the absence of any material evidence to support the case that Ex.C.1 is a dubious document, we are of the view that Ex.C.1, as is pertaining to a portion of the land, in the very same survey number of the

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acquired land, is reflecting the correct market value of the acquired land. Having come to the conclusion that the Ex.C.1 is a sale deed, which can be taken as a basis for determination of the market value, the necessary corollary would be that the determination of the value made by the Reference Court in a sum of Rs.15,000/- per cent is correct.

27. Now, let us consider the submissions made by the learned counsel for the second respondent that no development charges could be deducted from the compensation by the reference Court and interest on solatium can be granted only prospectively.

28. It could be seen from the reference proceedings dated 12.6.1987 of the Revenue Divisional Officer, Coonoor, that the nature of the land acquired has been classified as a dry land in an extent of 1.78 acres in column No.7 which relates to particulars of the land. The claimant has not adduced any evidence to prove that the subject land was developed land except adducing evidence that the acquired lands are surrounded by developed lands. As the land acquired are undeveloped dry lands, deduction has to be made from the market value towards development charges is a well recognised legal position. The Supreme Court in the case of BASAVA VS. SPECIAL LAND ACQUISITION OFFICER, (1996) 9 SCC 640, has held that the deductions can be between 33 1/3 to 53% from the market value and giving additional deduction of 12% i.e., total deduction of 65% was held to be not illegal. The other three decisions stated supra are to the same legal position. We are of the view that the reference to the same would be nothing but repetition of the legal position.

29. The Supreme Court in the case of KASTURI AND OTHERS VS. STATE OF HARYANA, (2003) 1 SCC 354, has held that in respect of agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally 1/3rd amount of compensation has to be deducted out of the amount of compensation payable on the acquired land subject to certain variations depending on its nature, location, extent of expenditure involved for development and the area required for roads and other civic amenities to develop the land so as to make the plots for residential or commercial purposes. A claimant who claims that his land is fully developed and nothing more is required to be done for developmental purposes, must show on the basis of evidence that it is such a land and it is so located. However, in cases of some land where there are certain advantages by virtue of the developed area around, it may help in reducing the percentage of cut to be applied, as the developmental charges required may be less on that account. There may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases less than 1/3rd.

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30. If we apply the ratio laid down by the Supreme Court in the above said judgment, the various factors, which are to be taken into consideration in this case, are that there is oral evidence of C.W.1 that the acquired land is situated well nearer to the hotels, markets, schools, telephone exchange i.e., within one kilometre, which is well corroborated by the Commissioner's report. It is also an admitted fact that the possession of the land has been taken by the second respondent in the year 1983 and started putting up construction on 30.7.1983 well prior to 1 1/2 years to the issuance of 4(1) notification. The acquired land is situated in Udhagamandalam town, which is considered to be queen of hills and possession of the land in that Udhagamandalam is considered to be prestigious in nature. Having regard to the fact that the acquired land is surrounded by developed area, wherein hotels of star value are there, and other amenities such as nearness to the market, Charingcross Road and the acquired land is situated near Ooty-Mysore Road and surrounded by developed areas and further the fact of possession has been taken 1 ½ years prior to the 4(1) notification whereby the claimant was deprived of his enjoyment of the property and the claimant could not even claim interest from the date of possession, but only from the date of 4(1) notification statutorily and in the totality of the circumstances of the case, we are of the view that the deduction of development charges can be fixed to 10 percent. Hence, the compensation awarded to the land in all fairness and reasonableness could be reduced by 10 percent.

31. Learned counsel for the second respondent submits that as the second respondent has already deposited the amount in the Bank, no further interest can be claimed. We are of the view that when the statute provides that the claimant is entitled to fixed percentage of interest, the deposit of the amount by the second respondent would not absolve them from payment of the rate of interest, as it is a statutory one.

32. The solatium of 30 percent was directed to be paid on the land value determined by the Reference Court and 12 percent statutory interest is also directed to be paid only from the date of 4(1) notification on the value determined. A contention was raised on behalf of the second respondent that interest has been directed to be paid on the solatium also. We find no irregularity either in the award of solatium or in the order of payment of interest, as it was awarded as required by the Statute.

33. For the fore-going reasons, the appeal is allowed to the extent of deduction of ten percent of the development charges from the value of the land arrived at by the Reference Court. Except the said modification, the order made by the Reference Court is confirmed. With this modification, the appeal is ordered.

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34. In view of the reasoning stated above, the writ petition is dismissed as nothing survives to be adjudicated. However, there is no order as to costs.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Land Acquisition Officer and
   the Revenue Divisional Officer
   Coonoor.
2. The District Judge
   (exercising powers under
   Sect.18 of Land Acquisition
   Act) The District Court
   Udhagamandalam
   Nilgiris District.

+1cc to the Govt. Pleader Sr 59691
+1cc to Mr.N.Jothi, AdvocateSr 59475
+1cc to Mr.S.K.Rakhunathan, Advocate Sr 59493

NG (CO)
km/22.10.

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